

REMARKS

This Amendment is being filed in response to the Office Action mailed November 31, 2006, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice. Further, the specification has been amended for better clarity and conformance with the drawings.

By means of the present amendment, claims 1-10 have been amended for better clarity, such as beginning the dependent claims with 'The' instead of 'A'. Claims 1-10 were not amended in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, claims 1-3, 5 and 9-10 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,583,824 (Lea). Claims 1-3, 5 and 9-10 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No.

6,961,167 (Prins). Claims 1-3, 5 and 9-10 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,449,081 (Onuki). Claim 5 is rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,369,954 (Berge). Claims 1 and 4-8 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rink in view of U.S. Patent No. 5,825,801 (Nishida) in view of U.S. Patent Application Publication No. 2003/0012483 (Ticknor). It is respectfully submitted that claims 1-20 are patentable over Lea, Prins, Onuki, Berge, Nishida and Ticknor for at least the following reasons.

Lea is directed to an electrocapillary device that includes two immiscible fluids 31, 33. As clearly shown in the various figures of Lea, such as FIG 2, all meniscuses of Lea are uniform and symmetric.

Prins is directed to a display device based on frustrated total internal reflection having two immiscible fluids 3, 4. As clearly shown in the various figures of Prins, such as FIG 1a, all meniscuses of Prins are uniform or symmetric straight lines.

Onuki is directed to an optical element having two immiscible fluids 15, 16. As clearly shown in the various figures of Onuki,

such as FIG 19A, all meniscuses of Onuki are uniform or symmetric.

Berge is directed to a lens with variable focus having two immiscible fluids 11, 13. As clearly shown in the various figures of Berge, such as FIG 1a, all meniscuses of Berge are uniform and symmetric.

Nishida is directed to a laser apparatus where a curvature of a reflection mirror is changeable by changing the pressure of a fluid. As correctly noted by the Examiner, Nishida does not teach or suggest a second fluid. Ticknor is cited in an attempt to remedy the deficiencies in Nishida.

Ticknor is directed to microfluidic control for waveguide optical switches having two immiscible fluids. As clearly shown in the various figures of Ticknor, such as FIG 3, all meniscuses of Ticknor are uniform and symmetric.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claims 5 and 9-10, amongst other patentable elements, requires (illustrative emphasis provided):

a meniscus adjuster arranged to controllably alter at least one of the shape and the position of the meniscus so that the meniscus is

asymmetric with respect the optical axis.

An asymmetric meniscus is nowhere taught or suggested in Lea, Prins, Onuki Berge, Nishida, Ticknor, and combinations thereof.

Accordingly, it is respectfully submitted that independent claims 1, 5 and 9-10 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-4, 6-8 and 11-20 should also be allowed at least based on their dependence from independent claims 1, 5 and 9-10.

Claim 4 also includes patentable features, namely, the mirror of claim 1 further comprising an aspherical lens element. Official Notice is taken on page 5 of the Office Action.

Applicants respectfully traverse the holding of the Official Notice that aspherical lens configurations are well known. It is respectfully submitted that claim 4 does not merely require "aspherical lens configuration." Rather, claim 4 requires an adjustable mirror as recited in claim 1, such as having two fluids, which also includes an aspherical lens element. Applicants request that the Examiner provide prior art references clearly illustrating an adjustable mirror as recited in claim 1 which also includes an aspherical lens element.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By Dicran Halajian, Reg. 39,703
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
January 29, 2006

Enclosure: New Abstract

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101